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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,616	03/19/2007	Walter Rajner	039185-4	4656
25570 7590 08/25/2009 ROBERT'S MLOTKOWSKI SAFRAN & COLE, P.C. Intellectual Property Department P.O. Box 10064 MCLEAN, VA 22102-8064				
EXAMINER YANG, JIE				
ART UNIT 1793		PAPER NUMBER		
NOTIFICATION DATE 08/25/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/550,616

**Applicant(s)**

RAJNER ET AL.

**Examiner**

JIE YANG

**Art Unit**

1793

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5, 13, 16, 17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 10, 11 and 19 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 8, 9, 16, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 2, 4, 14, 15, and 18 have been cancelled; claim 20 is added as new claim, claims 1, 6, 7, 10, and 19 have been amended, claims 12 and 13 are withdrawn as non-elected claims, and claims 1, 3, 5-11, 16, 17, 19, and 20 remain in examination.

### ***Status of the Precious Rejection***

Previous rejection of claims 7 and 19 under 35 U.S.C. 112, second paragraph as being indefinite has been withdrawn in view of the Applicant's amendment filed on 5/4/2009.

Previous rejection of claims 1, 4, and 9 under 35 U.S.C. 102(b) as being anticipated by DE 19954766 A1 (English abstract and machine translation) has been withdrawn in view of the Applicant's amendment filed on 5/4/2009. However, upon further consideration, a new ground(s) of rejection is made as following.

Previous rejection of claims 2, 3, 5, 8, and 16-18 under 35 U.S.C. 103 (a) as being unpatentable over DE 19954766 A1 (English abstract and machine translation) has been withdrawn in view of the Applicant's amendment filed on 5/4/2009. However, upon further consideration, a new ground(s) of rejection is made as following.

Previous objection of claims 6, 10, 11, and 19 as being dependent upon a rejected base claims has been withdrawn in view of the Applicant's amendment filed on 5/4/2009.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, 5, 8, 9, 16, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19954766 A1 (English abstract and machine translation, thereafter DE'766) in view of Wolfsgruber et al (US 6,391,250 B1, thereafter US'250).

DE'766 is applied to the claims 1, 3, 5, 8, 9, 16, and 17 for the same reason as stated in the previous office action dated 2/4/2009.

Regarding the newly amended features in the instant claim 1, DE'766 does not specify applying diathermic material foil and closing the casting mould in gas-tight manner. US'250 teaches a process to form foamed metal moldings (Abstract and Col.1, lines 4-7 of US'250). US'250 teaches applying graphite covering sheet (Col.8, lines 27-38 of US'250), which reads on the limitation of applying diathermic material foil as recited in the instant claim. US'250 teaches introducing the foamable materials into the mold and can be foamed-encapsulated there tight (Col.5, line 61 to col.6, line 6, and Col.8, lines 39-53 of US'250). Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to apply diathermic material foil and close the casting mould in gas-tight manner as demonstrated by US'250 in the process of DE'766 in order to obtain foamed metal products with integrated-in or integrated-on solid elements with exactly controllable final positioning (Col.2, lines 23-33 of US'250).

Regarding the newly added claim 20, US'250 teaches applying a graphite covering sheet (Col.8, lines 27-38 of US'250), which reads on the limitation of a graphite-containing foil as recited in the instant claim.

#### ***Allowable Subject Matter***

Claims 6, 10, 11, and 19 are allowed for the same reason as stated in the office action marked 2/4/2009.

Claim 7 is still objected to as depending from a rejected independent claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Regarding the "amendment/remarks" filed on 5/4/2009, it has been considered but they are not persuasive. The applicant's arguments are related to the amended feature. The Examiner's position regarding the amended features is stated as above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-270-1884. The examiner can normally be reached on M-F, 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JY

/Roy King/  
Supervisory Patent Examiner, Art Unit 1793